

STATE OF CALIFORNIA



MEMO

**To : POLICY AND PROCEDURE COMMITTEE  
KATHRYN ELLEN DOI, CHAIR  
BISMARCK OBANDO, MEMBER**

**Date:** June 30, 2014

**From : WILLIAM G. BRENNAN  
ROBIN PARKER**

**Subject: DISCUSSION CONCERNING PENDING LEGISLATION**

The following provides a summary of pending State legislation that is of interest to the New Motor Vehicle Board ("Board"). The bill updates are italicized. Pertinent provisions that have been deleted due to recent amendments are identified with strikeout font. The criteria for reporting on "legislation of general interest" is that the bill impacts the Vehicle Code, the Board, and/or the automotive industry in general and does not directly impact the Board or its enabling statute. For purposes of this report "legislation of special interest" is that which directly affects the Board's laws or functions. Assembly Bill 225 was taken off this report because it no longer pertains to medium speed electric vehicles; it concerns mobilehome loans.

Bill summaries include an overview of the bill, including aspects of the overview provided by the Legislative Counsel's Digest, as well as the current status of the bill.<sup>1</sup>

a. Pending Legislation of Special Interest.

**Assembly Bill 988 - Assembly Member Jones** (Introduced February 22, 2013, and amended May 24, 2013 *and June 15, 2014*)

**Status:** This bill passed the Assembly. It is a 2-year bill. *On June 15, 2014, the bill was read a second time, amended and re-referred to the Committee on Appropriations.*

**Support:** California Motorcycle Dealers Association (sponsor).

**Opposition:** None on file

**Legislative Counsel's Digest:** New Motor Vehicle Board: *all-terrain vehicles: recreational off-highway vehicles.*

Existing law establishes the New Motor Vehicle Board that regulates the activities or practices of a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative, as those terms are defined by the

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<sup>1</sup> All statutory references are to the Vehicle Code, unless otherwise indicated.

Vehicle Code. Existing law requires licensing by the Department of Motor Vehicles to do these activities for specified types of vehicles.

~~Existing law defines a recreational off-highway vehicle as a motor vehicle designed by the manufacturer for operation primarily off of the highway that has a steering wheel, nonstraddle seating, a maximum speed capability of greater than 30 miles an hour, and an engine displacement equal to or less than 1,000cc.~~

~~This bill would include the activities and practices of recreational off-highway vehicle dealers, manufacturers, manufacturer branches, distributors, distributor branches, or representatives within the scope of regulation by the Board.~~

~~This bill would require these entities to make application to the Department of Motor Vehicles for a license, but would exempt them from the written examination and education program requirements. The bill would require an applicant for a dealer's license for a dealer who deals exclusively in recreational off-highway vehicles to procure and file a bond with the department in the amount of \$10,000 before a license is issued or renewed. The bill would also require the holders of these licenses and the dealers, manufacturers, manufacturer branches, distributors, distributor branches, and representatives to pay fees for the issuance and renewal of a license.~~

*This bill would make a person who acts as a dealer, among other things, of recreational off-highway vehicles and utility-terrain vehicles subject to these licensing provisions and the provisions governing the New Motor Vehicle Board.*

*Under existing law, the Board consists of 9 members, 4 of whom are required to be new motor vehicle dealers, which existing law defines as a dealer who acquires for resale new and unregistered motor vehicles, off-highway motorcycles, or all-terrain vehicles. Existing law excludes a dealer who deals exclusively in motorcycles or recreational vehicles from appointment to the board as a new motor vehicle dealer.*

*This bill would also exclude a dealer who deals exclusively in all-terrain vehicles from appointment to the board as a new motor vehicle dealer.*

b. Pending Legislation of General Interest.

**(1) Assembly Bill 1732 - Assembly Member Stone** (Introduced February 14, 2014, and amended April 10, 2014 and June 15, 2014)

**Status:** ~~This bill was referred to the Assembly Business, Professions, and Consumer Protection Committee, and the Assembly Appropriations Committee. On May 8, 2014, this bill passed the Assembly and was referred to the Senate. On June 15, 2014, it was read a second time, amended, and re-referred to the Committee on Judiciary.~~

**Sponsor:** California New Car Dealers Association

**Support:** California New Car Dealers Association, AAA Northern California, Nevada, and Utah; Automobile Club of Southern California

**Opposition:** None on file

**Legislative Counsel's Digest:** Vehicles: manufacturers, distributors and dealers.

Existing law generally requires a manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, transporter, or dealer of vehicles to be licensed by the Department of Motor Vehicles. Existing law prohibits these licensees ~~from engaging in certain practices, including, from,~~ *among other things*, failing to, within 48 hours, withdraw in writing an advertisement of a vehicle that has been sold or withdrawn from sale and advertising or representing a vehicle as a new vehicle if the vehicle is a used vehicle. Existing law makes it a crime to violate these provisions.

This bill would ~~additionally~~ *remove the requirement that the withdrawal of the advertisement be in writing, provide that the advertisement withdrawal requirement apply to authorized advertisements, and provide an exception to withdrawal if the advertisement includes an expiration date that occurs less than 48 hours after the sale or withdrawal from sale, or the print advertisement is amended to conspicuously denote that the vehicle has been sold. The bill would prohibit a licensee from advertising a vehicle's prior use or ownership history in an inaccurate manner. By expanding the scope of a crime, the bill would impose a state-mandated local program.*

*Existing law makes it a violation for the holder of a dealer's license to, among other things, use "rebate" or similar words in advertising the sale of a vehicle unless the rebate is expressed in a specified dollar amount and is in fact a rebate offered by the vehicle manufacturer or distributor. Existing law also makes it a violation to advertise as the total sales price of a vehicle an amount that includes a deduction from a rebate, except as specified.*

*This bill would additionally authorize the use of "rebate" if the rebate meets the requirements described above and is offered by a finance company affiliated with a vehicle manufacturer or distributor, a regulated utility, or a governmental entity. The bill would also prohibit a dealer from advertising a rebate reduction that conflicts with another advertised rebate deduction. By expanding the scope of a crime, the bill would impose a state-mandated local program.*

**(3) Senate Bill 686 - Senator Jackson (Principal Coauthor: Assembly Member Dickinson)** (Introduced February 22, 2013; amended April 1 and 22, May 7 and 24, 2013, and June 4 and 10, 2014)

**Status:** This bill passed the Senate and was referred to the Assembly Judiciary Committee and Business, Professions, and Consumer Protection Committee. It is a 2-year bill. *On June 17, 2014, this bill failed passage in the Assembly Business, Professions and Consumer Protection Committee; Reconsideration was granted.*

**Support:** Consumers for Auto Reliability and Safety (sponsor), Advocates for Highway and Auto Safety, Avis Budget Group, California Nurses Association, California Public Interest Research Group, Center for Public Interest Law/Children's Advocacy Institute, *California Rural Legal Assistance Foundation*, Consumer Action,

Consumer Attorneys of California, Consumer Federation of California, Consumer Federation of America, Consumer Watchdog, Consumers Union, Enterprise Holdings, Hertz, *International Association of Machinists and Aerospace Workers*, Trauma Foundation, National Consumers League, State Farm, and *SafetyBeltSafe U.S.A.*

**Opposition:** California Chamber of Commerce, California Financial Services Association, California New Car Dealers Association, CarMax Auto Superstores, Inc., Copart, Inc., Civil Justice Association of California, and Independent Automobile Dealers Association of California.

**Legislative Counsel's Digest:** Vehicles: vehicle dealers.

~~Existing law provides that it is a violation of the Vehicle Code for the holder of any dealer's license issued as specified to advertise for sale or sell a used vehicle as "certified" or use any similar descriptive term in the advertisement or the sale of a used vehicle that implies the vehicle has been certified to meet the terms of a used vehicle certification program if any of specified provisions apply, including, but not limited to, the dealer knows or should have known that the vehicle has sustained frame damage, and the dealer disclaims any warranties of merchantability on the vehicle. Under existing law, a violation of these provisions is a crime.~~

~~The bill would also prohibit that representation from being made if the dealer knows or should have known that the vehicle is subject to a manufacturer's safety recall, and the repairs required to correct the defect have not been performed on the vehicle. By creating a new crime, the bill would impose a state-mandated local program.~~

~~Existing law provides that it is unlawful for a lessor-retailer to sell a vehicle without a vehicle dealer license or temporary permit. Existing law prohibits a licensed dealer from engaging in certain practices, including, among others, making an untrue or misleading statement indicating that a vehicle is equipped with all the factory-installed optional equipment the manufacturer offers. Under existing law, a violation of these provisions is a crime.~~

This bill would, *subject to exceptions*, additionally prohibit a dealer from selling, ~~leasing for an initial term of less than 4 months, renting, loaning, or otherwise transferring ownership at retail of a used vehicle, as specified, if the dealer knows or should have known that the vehicle is subject to a manufacturer's safety recall, unless the repairs required to correct the defect have been performed on the vehicle.~~ The bill would, *subject to exceptions*, additionally prohibit a rental company that is also a dealer from selling or otherwise transferring ownership at retail of a used vehicle, if the rental company knows or should have known that the vehicle is subject to a manufacturer's safety recall, unless the repairs required to correct the defect have been performed on the vehicle. The bill would require a dealer to obtain information about a used vehicle's safety recall status, as specified. ~~By creating a new crime, this define the term "manufacturer's safety recall." Because a violation of these provisions would be a crime under other provisions of existing law, the bill would impose a state-mandated local program. The bill would also make a violation of these provisions actionable under the Consumers Legal Remedies Act and the~~

~~Unfair Competition Law, and as false advertising. Specified prohibitions of this bill would become operative upon the initial effective date of the regulations adopted pursuant to a provision of the federal Moving Ahead for Progress in the 21st Century Act that implement that act. The bill would correct erroneous cross-references.~~

d. Pending Federal Legislation of General Interest: None.

This matter is for information only at the July 15, 2014, General Meeting. If you have any question or require additional information, please contact me at (916) 324-6197 or Robin at (916) 323-1536.

cc: Glenn Stevens